

Town of Shirley
Massachusetts



WARRANT

for the

2014 SPECIAL TOWN MEETING

Ayer-Shirley Regional Middle School
Auditorium, 1 Hospital Road
Beginning Monday, November 10, 2014 @ 7:15 PM

Attention – Voters and Taxpayers

Please bring this Report to Town Meeting

Town of Shirley Warrant, Special Town Meeting, November 10, 2014

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NOTICE

If the business of this Warrant for the Special Town Meeting is not concluded on Monday, November 10, 2014, it is proposed to adjourn as follows, provided that the Meeting so votes: to Monday, November 17, 2014 at 7:15 p.m.

**Town of Shirley
Special Town Meeting
November 10, 2014
Warrant**

Middlesex, ss.

Commonwealth of Massachusetts

To any of the Constables of the Town of Shirley in said County,

Greetings:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the Inhabitants of said Town, qualified to vote in Town affairs, to assemble in the Auditorium of the Ayer-Shirley Regional Middle School at 1 Hospital Road in Shirley on Monday, the Tenth day of November, 2014 at 7:15 p.m., to consider the following:

Article 1: Supplemental Appropriation of Funds for Fiscal Year 2015

To see if the Town will vote to transfer certain sums of money within the Fiscal Year 2015 budget or to appropriate a sum or sums of money to supplement said budget, said appropriations to be transferred from available funds or raised by taxation, as specified in the chart below; or take any other action relative thereto.

Line Item Number	Department/Account Name	FY2015 Approved	Proposed (Reduction/Increase)	FY2015 Revised Budget
175	Planning Board Wages	\$14,328.90	(\$14,328.90)	00.00
176	ZBA Wages	\$4,660.42	\$9,645.26	\$14,305.68
141	Assessor Clerk Wages	\$5,437.15	\$1,575.00	\$7,012.15
135	Assistant Accountant Wages	\$40,931.59	\$2,600.00	\$43,531.59
145/146	Assistant Treasurer Wages	\$38,288.70	(\$16,329.00)	\$21,959.70
145/146	Treasurer Salary	\$61,136.64	(\$4,140.80)	\$56,995.84
145/146	Tax Title/ Foreclosure	\$10,000.00	\$5,000.00	\$15,000.00
422	Department of Public Works Wages	\$00.00	\$11,329.00	\$11,329.00
211	Police Chief Salary	\$86,443.20	\$4,649.44	\$91,092.64
*422	Department of Public Works Union Wages	\$164,639.76	\$25,000.00	\$189,639.76

*211	Police Department Wages Union	\$627,369.79	\$25,000.00	\$652,369.79
*913	Group Health Insurance	\$512,500.00	\$20,000.00	\$532,500.00

**Denotes funding to be raised by taxation as a result of New Growth and not from the existing line items listed.*

Summary: *This article proposes supplemental appropriations to individual line items for FY 2015, while zeroing out lines that are no longer needed due to restructuring.*

A majority vote is required for the passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: 5 IN FAVOR, 1 ABSTENTION**

Article 2: Appropriate for Capital Item for FY2015

To see if the Town will vote to raise and appropriate, transfer from available funds, and/or borrow a sum or sums of money for the purpose of funding the FY 2015 Capital Budget item as follows:

Item #1 – Master Plan	\$ 54,000	Land Use Department
Item #2 – Cruiser/SUV	\$ 38,305	Police Department

or take any other action relative thereto.

Summary:

This article seeks funding for various Capital Items as set forth in the 2015 Capital Plan.

A majority vote is required for the passage of this article, unless the funding source is a borrowing or a transfer from Stabilization, in which case a 2/3 vote would be required.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

Article 3: Appropriate for Voting Machines

To see if the Town will vote to appropriate a sum of money, not to exceed \$9,999.00 to be expended by the Town Clerk for the purpose of purchasing a voting machine; such appropriation to be provided by a transfer from Free Cash; or take any other action relative thereto.

Summary: *This article transfers funds to the Town Clerk for the purpose of purchasing voting machines for the Town.*

A majority vote is required for passage of this article.

Sponsored by:
BOARD OF SELECTMEN

Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR

Article 4: Repurposing Capital Item in Fiscal Year 2014

To see if the Town will vote to transfer the sum of \$10,000, appropriated under Article 12E of the 2013 Annual Town Meeting for the purchase of police laptops, for the purchase police cruiser radios; or take any other action relative thereto.

Summary: *This article repurposes money that was originally approved for police cruiser laptops. The police department received a grant that can be used to purchase the laptops, so the police department would like to repurpose/transfer the capital money for needed radios. This money has already been appropriated with no additional cost to the Town.*

A majority vote is required for passage of this article.

Sponsored by:
BOARD OF SELECTMEN

Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR

Article 5: Transfer to OPEB Liability Trust Fund

To see if the Town will vote to transfer \$10,000.00 to the Other Post Employment Benefit (OPEB) Trust Fund by a transfer from Free Cash; or take any other action relative thereto.

Summary: *This article transfers \$10,000 to the OPEB Trust Fund. OPEB is an unfunded liability that the state has not mandated funding of, unlike retirement. The Fund was adopted at previous Town Meeting.*

A majority vote is required for passage of this article.

Sponsored by:
BOARD OF SELECTMEN

Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR

Article 6: Authorize Payment of Prior Year Bills

To see if the Town will vote to transfer a sum of money to pay bills incurred in a prior fiscal year by a transfer from available funds; or take any other action relative thereto.

Summary: *The fiscal year ends on June 30th of each year. However, the General Laws provide further that the Town has until July 15th for departments to submit all charges against their budgets to the Town Accountant. This process allows the Town to close its books on a fiscal year and submit financial reports to the Commonwealth on a timely basis. However, on a few occasions, there are invoices that are received well past the July 15th deadline.*

This article seeks funding for the following prior year bills:

Lexis Nexis -	\$164.43
Guardian Information	\$472.51
King Luminaire-	\$3,840.00

A 9/10th vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

Article 7: Transfer to the General Stabilization Fund

To see if the Town will vote to transfer a sum of money to the General Stabilization Fund by a transfer from available funds; or take any other action relative thereto.

Summary: *This article transfers to the General Stabilization Fund surplus funds realized as a result of any other actions taken in the previous articles of this warrant. Additionally, should additional revenues be recognized or state aid increase after the signing of this warrant, the Town has the means to "capture" those revenues with this article, and deposit those receipts into the General Stabilization Fund.*

A two-thirds vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

Article 8: Transfer to the Capital Stabilization Fund

To see if the Town will vote to transfer a sum of money to the Capital Stabilization Fund by a transfer from available funds; or take any other action relative thereto.

Summary: *This article transfers to the Capital Stabilization Fund surplus funds realized as a result of any other actions taken in the previous articles of this warrant. Additionally, should additional revenues be recognized or state aid increase after the signing of this warrant, the Town has the means to "capture" those revenues with this article, and deposit those receipts into the Capital Stabilization Fund.*

A two-thirds vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

ARTICLE 9: Approve Solar Tax Agreement(s)

To see if the Town will vote to authorize the Board of Selectmen and the Board of Assessors to negotiate and enter into a payment in lieu of tax agreement(s) pursuant to Massachusetts General Laws Chapter 59, Section 38H(b) with one or more renewable energy generation companies operating one or more solar systems, and to approve said agreements; or take any other action relative thereto.

Summary: *There are four tax agreements that the Town is requesting Town Meeting approve. The agreements are as follows:*

<u>Company</u>	<u>Location</u>	<u>Size (more or less), Map and Parcel</u>
<i>Nextsun Energy</i>	<i>Landfill on Leominster Road</i>	<i>1.5 Megs, 9.22 acres; 10-A-2</i>
<i>Nextsun Energy</i>	<i>Bartkus Property on Walker Road</i>	<i>3 Megs, 17.6 acres; 97-B-14 & 97-B-15</i>
<i>Shirley Water District</i>	<i>Walker Road</i>	<i>Online</i>
<i>National Grid</i>	<i>Groton Road</i>	<i>1 Meg, 8.8 acres; 28-A-2.12</i>

A majority vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN
ASSESSORS
ENERGY COMMITTEE**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

ARTICLE 10: Leasing of Land

To see if the Town will vote to transfer the care, custody, and control of all or a portion of (1) the land located on Leominster Road, consisting of 9.22 acres, more or less, shown on Shirley Assessors' Map as parcel 10-A-2, and known as the "Landfill Site", from the Board of Selectmen and/or Board of Health for landfill purposes to the Board of Selectmen for the purpose of leasing and to the Board of Health for landfill purposes, and (2) the land located on Groton Road, consisting of 8.8 acres, more or less, shown on Shirley Assessors' Map as parcel 97 B 14 & 97 B 15, from the tax custodian for tax title purposes to the Board of Selectmen for general municipal purposes and for the purpose of leasing; and to authorize the Board of Selectmen to lease the foregoing land, and the land located on Walker Road, consisting of 17.6 acres, more or less, shown on Shirley Assessors' Map as parcel 28 A 2.12, and known as the "Bartkus Site", to a solar energy electricity production company for the installation of a solar

photovoltaic array on said land on such terms and conditions as the Board of Selectmen deems appropriate; and to authorize the Board of Selectmen to take any and all action and execute any and all documents in connection therewith, or take any other action relative thereto.

Summary: *This article seeks approval of Town Meeting to allow the Board of Selectmen to enter into a long term lease with a solar energy production entity. The Energy Committee has been working on creating a Solar Photovoltaic Array on various properties and is ready to proceed with a project on the landfill site on Leominster Road, Bartkus property on Walker Road, and the Groton Road property. A full explanation of the project and the companies to which the leases will be awarded will be provided at the Fall Town Meeting.*

A two-thirds vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN
ENERGY COMMITTEE**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

ARTICLE 11: Approve 43 D Priority Site

To see if the Town will accept the provisions of Chapter 43D of the Massachusetts General Laws as amended pursuant to Section 11 of chapter 205 of the acts of 2006, and to approve the filing of an application with the Interagency Permitting Board for the designation of the following described land at Lancaster Road as a Priority Development Site: 2-B-1, 2-B-1.1, 2-B-1.12, 2-B-1.13, 2-B-1.2, 2-B-1.21, 2-B-1.22, 2-B-1.23; or take any other action relative thereto.

Summary: *The Economic Development Committee has chosen this site on Lancaster Road as an Expedited Permitting site. The map is in the back of this warrant. This is to promote Economic Development in Town. A full explanation of the article will be provided at the Fall Town Meeting.*

A majority vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN
PLANNING BOARD
ECONOMIC DEVELOPMENT COMMITTEE**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

ARTICLE 12: Amend Article I of the Town Meeting Bylaw

To see if the Town will vote to amend Article I, "Town Meeting," of the Town Bylaws as set forth below, with text to be inserted shown by underlining and text to be deleted shown by strikethrough, or take any other action relative thereto.

**ARTICLE I
TOWN MEETINGS**

~~Section 1 The Annual Town Meeting shall be held on the first Tuesday following the second Monday of May of each year. [Amended Feb 19, 1974 STM]~~

~~Section 2 The polls shall be open at 11:45 o'clock in the morning and shall remain open until 8:00 o'clock in the evening unless otherwise ordered by the Board of Selectmen.~~

Section 1 The Annual Town Meeting shall commence no earlier than the last day in March and no later than the last day of May. The Selectmen shall fix the time and place for the meeting.

Section 2 The Annual Town Election shall fall on the first Tuesday in May, unless otherwise decided by December 15th by the Board of Selectmen.

~~Section 3 All business of the Annual Town Meeting, except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot, shall be considered at an adjournment of such meeting, to be held on the succeeding Monday of May at 7:15 P.M. [Amended Dec 12, 1973 STM; Feb 19, 1974 STM; June 14, 1982 ATM; and May 18, 1985 ATM]~~

Section 3 RESERVED

Section 4 Notice of every **annual** town meeting shall be given by posting attested copies of the warrant therefor in at least one public place in Shirley Center and at least one public place in Shirley Village not less than seven days before the day fixed for such meeting.

Section 5 The Annual Town Reports will be available to residents at the Annual Town Election and at the Annual Town Meeting, or they may be picked up at the Town Clerk's Office. [Amended May 14, 1983 ATM]

Section 6 Notice of every Special Town Meeting shall be given by posting attested copies of the warrant for said Special Town Meeting in at least one public place in Shirley Center and at least one public place in Shirley Village not less than fourteen days before the day fixed for such meeting. ~~and by publication in one or more local newspaper not less than fourteen days before the day fixed for such meeting. [Amended May 14, 1983 ATM]~~

Section 7 Except as otherwise required by law, compliance with the preceding sections shall not be a requisite of valid notice of any town meeting, and non-compliance with said sections shall not affect the validity of any meeting or any action taken there at.

Section 8 Attendance at town meeting shall be limited to registered voters of that town except that other persons may be admitted to a separate section reserved for non-voters as determined by the Moderator.

Section 9 The Moderator shall preside, regulate the proceedings, decide all questions of order and make public declaration of all votes.

Section 10 Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by a two-thirds vote of the meeting.

Section 11 All motions other than parliamentary motions shall be presented in writing.

- Section 12 *If a motion is susceptible to division, it shall be divided and the question shall be put separately upon each part thereof, ~~if five voters so request.~~ **upon approval of town meeting by majority vote.***
- Section 13 *When a question is before the meeting, the following motions, to wit; to lay on the table; for the previous question; to postpone to a time certain; to commit, recommit, or refer; to amend; to postpone indefinitely; shall be received and shall have precedence in the foregoing order; and the first two shall be decided without debate.*
- Section 14 *On proposed amendments involving expenditures of money, the larger or largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller amount.*
- Section 15 *Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon. (For penalty see Section 3 of Article XII)*
- Section 16 *~~All committees authorized by the voters must report within a year of their appointment by an article in the warrant, and the Selectmen shall include an article in their warrant to hear such report. All reports shall be in writing, and a copy of the same shall be filed with the Town Clerk for publication in the next annual report. If no report is made within one year of the appointment, the committee shall be discharged and all moneys unexpended and uncommitted shall be returned to the Treasury.~~*
- Section 16 RESERVED**
- Section 17 *No motion the effect of which be to dissolve the meeting shall be in order until every article in the warrant therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.*
- Section 18 *On questions requiring a simple majority vote or a two-thirds vote, a raise-of-hands vote shall be sufficient; and should the Moderator determine the statutory vote requirements have been achieved, he/she may dispense with a count and simply declare the results of the vote. On questions requiring a different majority, such as a four-fifths, or nine-tenths vote, the Moderator shall verify said count by a raise of hand, provided, that if the vote is unanimous, a count need not be taken. If any vote declared by the Moderator is immediately questioned by seven or more voters, the Moderator shall verify said count by a raise of hand, a standing vote, or a ballot vote. [Amended September 29, 2008 STM]*
- Section 19 *No person shall speak more than three times upon any question unless leave of the Moderator is first obtained.*
- Section 20 *The reporting year for the Annual Town Report shall be the Fiscal Year of the Town, from July 1st of each calendar year through June 30th of the following calendar year. [Added May 23, 2001 ATM]*

Summary: *The major change to this article is the time in which the Board of Selectmen can schedule a Town Meeting. Note further, however, that the Board of Selectmen retains authority under state law, G.L. c.39, §9, to delay the date of Town Meeting on its own initiative, regardless of any provision of a local bylaw, charter or special act to the contrary.*

A majority vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

ARTICLE 13: Amend Article XII "Penalties" of the Town Bylaws

To see if the Town will vote to amend Article XII, "Penalties," of the Town Bylaws as set forth below, with text to be inserted shown by underlining and text to be deleted shown by strikethrough, or take any other action relative thereto.

**ARTICLE XII
PENALTIES**

The Town of Shirley has developed and revised the Penalties By-Laws. This by-law brings penalties for varied offenses more in line with existing Massachusetts General Laws and serves as an enforcement tool to access appropriate fines for specific violations.

Applicability:

The provisions of this by-law shall apply to Shirley's finable offenses as identified in the corresponding by-laws.

Section 1 Violations of Section 1, ~~1a, and~~ 3 of Article VI of the Town Bylaws (Health and Sanitation) shall be punished by a ~~fine of not exceeding \$5.00~~ fine of \$300.00, for each offense, with each day a violation exists considered a separate violation. In addition, any person violating this bylaw shall be required to remove all illegally dumped materials at his own expense, or, after failure to comply with an order to remove said materials, shall reimburse the Town for its actual costs incurred in connection with removal of such materials.

Section 4 of Article VI and of Sections 4, 5, and 7 of Article VII shall be punished by a fine of \$25.00 per offense.

Section 2 Violations of Section 7 of Article VI, (Health and Sanitation) of Section 2 of Article VII, (Police Regulations) and of Section 2 of Article IX (Hawkers and Peddlers) shall be punished by a ~~fine of not exceeding \$10.00~~ of \$50.00 for each offense.

Section 3 Violations of Section 15 of Article I, (Town Meeting) Section 5 of Article VI, (Health and Sanitation) Sections 3 and 6 of Article VII (Police Regulations) and of Section 2 of Article VIII shall be punished by a ~~fine of not exceeding \$20.00~~ \$50.00

Section 4 Deleted May 21, 1991

Section 5 Violations of Section 2 and 6 ~~and 8~~ of Article VI, (Health and Sanitation) and of

Section 8 of Article VII **(Police Regulations)** shall be punished by a fine of ~~not exceeding \$25.00~~ **\$50.00** for each offense.

Section 6 Violation of Section 1 and 2 of Article X **(Driveways)** shall be punished by a fine of ~~not exceeding~~ \$100.00 for each offense.

Section 7 Violation of Section 1 of Article XI **(Soil Removal)** shall be punished by a fine of \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for each subsequent offense.

Section 8 Each day that a violation of the sections set forth herein continues shall constitute a separate and distinct offense.

Summary: The fines in the Penalties Bylaw have not been updated since 1970. This article increases the penalties to amounts in line with surrounding communities.

A majority vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: AT TOWN MEETING
Finance Committee: AT TOWN MEETING**

ARTICLE 14: Cy Pres Petition

To see if the Town will vote to authorize the Board of Selectmen to undertake such action, as may be necessary or appropriate, including but not limited to the filing of a cy pres petition or petitions with the appropriate court, to allow the Town to repurpose the use of selected Trust Funds where the purposes of such Trust Funds are no longer needed or achievable, or take any other action relative thereto.

Summary: *The Town has money in old Trust Funds for which the purpose of the fund no longer exists. This article asks that these funds be repurposed for the existing High School Debt. The Trust Funds are as follows:*

	<i>Principal</i>	<i>Interest</i>	<i>Unrealized Gain</i>	<i>Total</i>
<i>Parker School Fund</i>	<i>\$4,000</i>	<i>\$1,558.55</i>	<i>\$412.87</i>	<i>\$5,971.42</i>
<i>Longley Union/High School Fund</i>	<i>\$4,000</i>	<i>\$62,916.30</i>	<i>\$4,970.27</i>	<i>\$71,886.57</i>
<i>Longley Intermediate/Primary Fund</i>	<i>\$2,000</i>	<i>\$2,936.02</i>	<i>\$ 366.63</i>	<i>\$5,302.65</i>

A majority vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN**

**Board of Selectmen: ALL IN FAVOR
Finance Committee: ALL IN FAVOR**

ARTICLE 15: Road Acceptance Derby Drive

To see if the Town will vote to accept as a Public Way, Derby Drive, as shown on a plan entitled "As Built Plan of Derby Drive in Shirley, Massachusetts prepared for Derby Drive" prepared by Hayes Engineering, dated October 16, 2014 and recorded with the appropriate Registry of Deeds, as heretofore laid out by the Board of Selectmen, and further, to authorize the Board of Selectmen to acquire by purchase, gift or otherwise such easements in said Derby Drive as may be needed for all purposes for which public ways are used in the Town of Shirley, and any and all drainage, utility, access, and/or other easements related thereto, or take any other action relative thereto.

Summary: *Town Meeting approval of this article would make Derby Drive a public way.*

A 2/3rd vote is required for passage of this article.

**Sponsored by:
BOARD OF SELECTMEN
PLANNING BOARD**

**Board of Selectmen: AT TOWN MEETING
Finance Committee: AT TOWN MEETING**

* * * *

And you will serve this Warrant by posting true and attested copies of same at the Town Offices and the Hazen Memorial Library in Shirley Village, at the Center Town Hall in Shirley Center, and a like copy at the United States Post Office in Shirley Village, fourteen days at least before the time appointed for said Meeting.

Hereof fail not and make due return of this Warrant with your doings therein to one of the Selectmen, on or before the date of the Meeting.

Given under our hands at Shirley, this _____ Day of _____, 2014.

BOARD OF SELECTMEN

David N. Swain, Chair

Kendra J. Dumont, Vice Chair

Robert E. Prescott, Jr Clerk

A true copy.
Attest:

Amy R. McDougall
Town Clerk

* * * *

* * * *

RETURN OF SERVICE

I certify that on the _____ Day of _____, 2014, I duly posted true and attested copies of the foregoing Warrant at the following places and times:

Town Offices _____ M.

U. S. Post Office _____ M.

Center Town Hall _____ M.

Hazen Memorial Library _____ M.

Constable, Signature

Constable, Printed Name

* * * *